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DIGEST OF OTHER RECENT VIRGINIA DECISIONS

Supreme Court of Appeals.

Note.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals, except of such cases as are reported in full.

GRICE *v.* TODD.

March 15, 1917. Rehearing Denied March 28, 1917.

[91 S. E. 609.]

Landlord and Tenant (§ 114 (3*))—Tenancy from Year to Year—Holding Over.—A tenant gave his landlord notice of intention to vacate. Owing to his inability to secure wagons to move his effects, he was compelled to hold over for three days, at the end of which time he sent the keys to the agent named in the lease explaining the circumstances, whereupon the landlord elected to hold him as tenant from year to year by reason of his having so held over. Held that, since no obligation will be implied in law from an act which is not voluntary, a contract of tenancy from year to year will not be implied.

[Ed. Note.—For other cases, see *Landlord and Tenant*, Cent. Dig. §§ 378-381.* 9 Va.-W. Va. Enc. Dig. 119.]

Appeal from Law and Equity Court of City of Richmond.

Action by Mary V. Todd against Edward Grice. Judgment for plaintiff, and defendant appeals. Reversed.

George Bryan, of Richmond, for plaintiff in error.

S. A. Anderson, *E. V. Farinholt*, and *R. R. Florence*, all of Richmond, for defendant in error.

CORBITT *v.* WRIGHT et al.

March 15, 1917.

[91 S. E. 612.]

1. Descent and Distribution (§ 26*)—Theory of Statute.—The theory of the Virginia statute of descent and distribution is that on the death of an intestate the estate passes in coparcenary equally to the children, subject to widow's rights.

[Ed. Note.—For other cases, see *Descent and Distribution*, Cent. Dig. §§ 76, 77.* 4 Va.-W. Va. Enc. Dig. 600.]

2. Descent and Distribution (§ 105*)—Advancement—Hotchpot—Affecting Purchaser before Distribution.—In view of Code 1904, § 2561, providing that when an intestate decedent has had an ad-

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

vancement, it shall be brought into hotchpot, and he shall then be entitled to his proper portion, his purchaser before distribution is likewise bound and takes only his grantor's interest, and the doctrine of bona fide purchaser does not apply.

[Ed. Note.—For other cases, see Descent and Distribution, Cent. Dig. §§ 398-401. 1 Va.-W. Va. Enc. Dig. 195.]

Appeal from Circuit Court, Nansemond County.

Suit by James H. Corbitt against J. Etta Wright and others. Judgment for defendants, and plaintiff appeals. Affirmed.

Williams, Tunstall & Thom, of Norfolk, and *W. P. Lipscomb*, of Suffolk, for appellant.

J. R. Saunders, of Suffolk, for appellees.

VIRGINIA TRUST CO. *v.* RAYMOND.

March 15, 1917.

[91 S. E. 613.]

1. Carriers (§ 318 (10)*)—Injury to Passenger—Sufficiency of Evidence—Opportunity to Alight.—In an action for personal injuries to a street car passenger, evidence held to sustain both counts of the declaration, alleging a breach of the carrier's duty to give the passenger an opportunity to alight, and negligence in starting the car after the passenger had alighted, and before she had a reasonable opportunity to get out of the way.

[Ed. Note.—For other cases, see Carriers, Cent. Dig. § 1314.* 2 Va.-W. Va. Enc. Dig. 703.]

2. Carriers (§ 348 (12)*)—Injuries to Passenger—Instructions—Applicability to Evidence—Last Clear Chance.—In an action for injuries to a street car passenger, evidence that after she had alighted, and while the motorman and conductor knew she was in a position of danger, the car was started around a curve at a rapid rate, and the rear fender, swinging out, struck the passenger and injured her, is sufficient to warrant an instruction on the doctrine of last clear chance.

[Ed. Note.—For other cases, see Carriers, Cent. Dig. §§ 1403, 1405. 2 Va.-W. Va. Enc. Dig. 721.]

Error to Circuit Court of City of Richmond.

Action by Margaret Raymond against the Virginia Trust Company, as receiver of the Richmond & Henrico Railway Company. Judgment for plaintiff, and defendant brings error. Affirmed.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.